

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-3934

United States of America,

Appellee,

v.

Luis Lira, also known as Luis Joel
Lira-Lopez, also known as Joel Lira-
Lopez, also known as David Machuka-
Hernandez, also known as Manuel
Machuka-Perez,

Appellant.

*
*
*
*
*
*
*
*
*
*
*

Appeal from the United States
District Court for the District
of Minnesota.

[UNPUBLISHED]

Submitted: August 26, 2004

Filed: August 31, 2004

Before SMITH, FAGG, and HANSEN, Circuit Judges.

PER CURIAM.

Luis Lira appeals the sentence the district court* imposed after Lira pleaded guilty to possessing cocaine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B) and 18 U.S.C. § 2, and illegally reentering the United States

*The Honorable David S. Doty, United States District Judge for the District of Minnesota.

following deportation, in violation of 8 U.S.C. § 1326(a). Lira's counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing the court should have sentenced Lira below the statutory minimum.

We conclude the district court committed no error in not departing below the statutory minimum sentence, because the government had not filed a substantial-assistance motion and Lira did not qualify for safety-valve relief. See 18 U.S.C. § 3553(e); U.S.S.G. § 5C1.2(a)(1); United States v. Chacon, 330 F.3d 1065, 1066 (8th Cir. 2003). Having conducted an independent review under Penson v. Ohio, 488 U.S. 75, 80 (1988), and finding no nonfrivolous issues, we affirm the judgment of the district court. We also grant counsel's motion to withdraw.
